

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) EL DORADO CHEMICAL COMPANY,)	
an Oklahoma corporation,)	
)	
Plaintiff,)	
)	
v.)	CIV- <u>14-491-F</u>
)	
(1) AIR LIQUIDE INDUSTRIAL U.S. LP, a)	
Delaware corporation,)	
)	
Defendant.)	

COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COMES Plaintiff, EL DORADO CHEMICAL COMPANY (“El Dorado”), by and through its undersigned counsel, for its Complaint against Defendant, AIR LIQUIDE INDUSTRIAL U.S. LP (“Air Liquide”), and hereby alleges as follows:

THE PARTIES

1. El Dorado is an Oklahoma corporation with its principal place of business located at 16 South Pennsylvania Ave., Oklahoma City, Oklahoma. El Dorado is in the business of manufacturing industrial and agricultural grade ammonium nitrate, nitric acid and sulfuric acid.

2. Air Liquide is a Delaware corporation with its principal place of business located at 2700 Post Oak Blvd., Houston, Texas. Air Liquide is in the business of producing and supplying industrial gases for various industries.

JURISDICTION

3. This Court has diversity jurisdiction over this lawsuit pursuant to 28 U.S.C. § 1332(a)(1) because complete diversity of citizenship exists, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

VENUE

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(a) because El Dorado and Air Liquide entered into a contract requiring that any suit “relating to” the contract be litigated in Oklahoma.

BACKGROUND

5. At all times relevant, El Dorado owned and operated a chemical plant located at 4500 North West Ave., El Dorado, Arkansas, where it manufactures industrial and agricultural grade ammonium nitrate, nitric acid and sulfuric acid.

6. One of the facilities within El Dorado’s Arkansas plant was a 98% nitric acid plant (the “DSN Plant”), which contained two nitric acid reactors.

7. Prior to May 15, 2012, El Dorado entered into an On-site Product Supply Agreement (“Agreement”) with Air Liquide for the sale of an on-site supply center of oxygen required for the reactions conducted in the DSN Plant reactors.

8. On or about May 15, 2012, during an initial startup of one of the two nitric acid reactors (“Reactor B”) at the DSN Plant after a maintenance turnaround, a catastrophic explosion occurred in Reactor B, which resulted in significant damage to El Dorado’s property and business.

9. On information and belief, during one of El Dorado’s maintenance turnarounds in 2010 or 2011, Air Liquide replaced portions of the existing oxygen piping within its on-site oxygen facility with new piping.

COUNT I
NEGLIGENCE

10. El Dorado adopts and incorporates paragraphs 1 through 9 of its Complaint as though set forth fully herein as paragraphs 1 through 10 of Count I.

11. At all times relevant, Air Liquide owed El Dorado the duty to exercise reasonable care and caution in supplying gaseous oxygen to El Dorado for its DSN 98% nitric acid processes.

12. On or before May 15, 2012, Air Liquide breached the aforementioned duty in one or more of the following respects:

- (a) by failing to properly and thoroughly clean the interior of replacement oxygen piping segments installed in 2010 or 2011 at its on-site oxygen plant;
- (b) by failing to properly inspect the interior of replacement oxygen piping segments before placing them in service in 2010 or 2011 at its on-site oxygen plant to ensure that they were free of any foreign contamination;
- (c) by failing to exercise due care and caution in the installation of the replacement oxygen piping segments to ensure that no foreign contaminants were left behind inside the oxygen pipes; and
- (d) by otherwise failing to ensure that the oxygen piping within its on-site oxygen plant was clean and free of any foreign contaminants.

13. As a direct and proximate result of one or more of the foregoing negligent and/or grossly negligent acts or omissions, on May 15, 2012, during a cold start after a maintenance turnaround, gaseous oxygen from Air Liquide's on-site plant transported foreign particle contaminants residing within Air Liquide's oxygen piping into Reactor B of the DSN Plant. As a result, a violent oxygen fire erupted due to the particle contaminants' impact with the aluminum reactor and/or reactor liner, resulting in a catastrophic explosion that destroyed the DSN plant.

14. As a result of the explosion, El Dorado sustained property damage and business interruption losses exceeding \$100 million.

WHEREFORE, Plaintiff, EL DORADO CHEMICAL COMPANY, respectfully requests that this Court enter judgment in its favor and against Defendant, AIR LIQUIDE INDUSTRIAL U.S. LP, in the full amount of Plaintiff's provable damages plus costs, interest and for such other and further relief as this Court deems equitable and just.

COUNT II
STRICT LIABILITY

15. El Dorado adopts and incorporates paragraphs 1 through 15 of its Complaint as though set forth fully herein as paragraphs 1 through 16 of Count II.

16. The gaseous oxygen supplied by Air Liquide to El Dorado on May 15, 2012 was defective and unreasonably dangerous because it contained foreign particle contaminants capable of causing a catastrophic fire at El Dorado's DSN plant.

17. Air Liquide is subject to strict liability for the damages caused by the explosion resulting from Air Liquide's supply of gaseous oxygen contaminated with foreign particles.

WHEREFORE, Plaintiff, EL DORADO CHEMICAL COMPANY, respectfully requests that this Court enter judgment in its favor and against Defendant, AIR LIQUIDE INDUSTRIAL U.S. LP, in the full amount of Plaintiff's provable damages plus costs, interest and for such other and further relief as this Court deems equitable and just.

Respectfully submitted,

/s/David Proctor

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